

ENTERED

September 06, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

CRYSTAPHASE PRODUCTS, INC.	§
	§
Plaintiff.	§
	§
VS.	§ CIVIL ACTION NO. 3:17-CV-00265
	§
CRITERION CATALYSTS &	§
TECHNOLOGIES, LP; CRITERION	§
CATALYST COMPANY; SHELL	§
GROUP; AND SHELL GLOBAL	§
SOLUTIONS, INC.	§
	§
Defendants.	§

**ORDER ADOPTING MAGISTRATE JUDGE'S
MEMORANDUM AND RECOMMENDATION**

Pending before the Court is Plaintiff Crystaphase Products, Inc.'s Objections to Magistrate Judge's Memorandum and Recommendation ("Objections"). On June 26, 2018, Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint ("Motion to Dismiss") (Dkt. 27) was referred to Judge Andrew M. Edison pursuant to 28 U.S.C. § 636(b)(1). On August 20, 2018, Judge Edison filed a Memorandum and Recommendation recommending that the Defendants' Motion to Dismiss be GRANTED IN PART and DENIED IN PART. Specifically, Judge Edison recommended that the patent infringement claims (Counts I and II) be dismissed and the Lanham Act claim (Count III) survive the Motion to Dismiss.

On September 4, 2018, Plaintiff filed its Objections. In its Objections, Plaintiff does not contest the substance of Judge Edison's decision; rather, Plaintiff merely

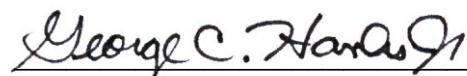
“objects . . . to the extent that [Judge Edison] recommend[ed] dismissal of Crystaphase’s patent infringement claims with prejudice.” Dkt. 47 at 1. In accordance with 28 U.S.C. § 636(b)(1)(C), this Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* FED. R. CIV. P. 72(b)(3).

The Court has carefully considered the Objections; the Memorandum and Recommendation; the pleadings and summary judgment record; and the briefing and arguments of the parties. The Court **ACCEPTS** Judge Edison’s Memorandum and Recommendation and **ADOPTS** it as the opinion of the Court. It is therefore **ORDERED** that:

- (1) Defendants’ Motion to Dismiss is **GRANTED IN PART** and **DENIED IN PART**;
- (2) Plaintiff’s patent infringement claims (Counts I and II) are **DISMISSED without prejudice**; and
- (3) Plaintiff’s Lanham Act claim (Count III) shall proceed;

It is so **ORDERED**.

SIGNED at Galveston, Texas, this 6th day of September, 2018.



George C. Hanks Jr.
United States District Judge